

PUBLIC CHAPTER NO. 1150

HOUSE BILL NO. 2760

By Representatives Bibb, Hardaway

Substituted for: Senate Bill No. 2947

By Senators Haynes, Ford, Raymond Finney

AN ACT to amend Tennessee Code Annotated, Title 13, Chapter 3; Title 13, Chapter 4 and Title 13, Chapter 7, relative to public planning.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 13-3-301(b), is amended by adding after the phrase "urban development" and before the semicolon the language "and the identification of areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur".

SECTION 2. Tennessee Code Annotated, Section 13-3-302, is amended by deleting the period at the end of the section and adding the following:

, and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur.

SECTION 3. Tennessee Code Annotated, Section 13-3-303, is amended by adding the following after the second sentence of the section:

Prior to the adoption of the plan or any part, amendment or addition thereto, the commission shall hold a public hearing thereon, the time and place of which shall be published in a newspaper of general circulation in the county at least thirty (30) days prior to the meeting in which the adoption is to be first considered.

SECTION 4. Tennessee Code Annotated, Section 13-3-304, is amended by adding the following at the end of the section:

Once the planning commission of the region or the municipality has adopted and certified the general regional plan, the planning commission's transmittal of the certification to the legislative body may simultaneously include a resolution by the planning commission requesting the legislative body's consideration and adoption of the general regional plan. The county legislative body by resolution or the

municipal legislative body by ordinance may adopt the general regional plan or in the case of the municipality their element of the plan as certified by the planning commission. Prior to the adoption of the general regional plan or amendment thereof by a legislative body, the legislative body shall hold a public hearing thereon, the time and place of which shall be published in a newspaper of general circulation in the county at least thirty (30) days prior to the meeting in which the adoption or amendment is to be first considered. If the legislative body adopts the general regional plan in the form of an ordinance by the municipality or a resolution by the county, then any land use decisions thereafter made by the legislative body or planning commission must be consistent with the general regional plan.

(1)

(A) Except as provided in subdivision (B), if the planning commission initiates and votes to adopt an amendment to the general plan, the legislative body must pass the amendment by a majority vote in order for the amendment to be operative.

(B) Provided, however, in any county having a population of:

<u>not less than</u>	<u>nor more than</u>
12,800	12,900
7,975	8,025
17,400	17,450
20,300	20,400
17,700	17,775
7,200	7,300
88,800	88,900.

, all according to the 2000 federal census or any subsequent federal census, if the planning commission initiates and votes to adopt an amendment to the general plan, the amendment shall be operative without further action of the legislative body. The planning commission shall transmit its action to the legislative body.

(2) The general regional plan may be amended upon the initiative of the legislative body. Such initiative must be transmitted, in writing, to the planning commission for its review, consideration and vote. The planning commission must take action on the amendment within sixty-one (61) days of the submittal of the amendment to the planning commission by the legislative body.

(A) Except as provided in subdivision (B), if the planning commission votes to approve or not approve the amendment or transmits it back to the legislative body with no recommendation, the legislative body must then approve such amendment by a majority vote, in order for the amendment to be operative.

(B) Provided, however, in any county having a population of:

<u>not less than</u>	<u>nor more than</u>
12,800	12,900
7,975	8,025
17,400	17,450
20,300	20,400
17,700	17,775
7,200	7,300
88,800	88,900.

, all according to the 2000 federal census or any subsequent federal census, if the planning commission votes to approve the amendment, the amendment shall be operative without further action of the legislative body. If such planning commission votes to not approve the amendment or to make no recommendation on the amendment, the amendment shall not be operative. The planning commission shall transmit its action back to the legislative body and provide a written explanation for its reasons in not approving the amendment or for not making a recommendation on the initiative transmitted to the commission by the legislative body.

The general regional plan may be adopted as an element of the jurisdictions' growth plan through the process established in Title 6, Chapter 58, but if the regional general plan is not adopted as part of the growth plan, it nevertheless cannot be inconsistent with the growth plan or the intent of Title 6, Chapter 58.

SECTION 5. Tennessee Code Annotated, Section 13-3-403(a), is amended by deleting the period at the end of the subsection and adding the following language:

or would be located in areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur.

SECTION 6. Tennessee Code Annotated, Section 13-4-201, is amended by adding after the phrase "the physical development" and before the comma in the second sentence the language "of the area of the municipal planning jurisdiction and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur".

SECTION 7. Tennessee Code Annotated, Section 13-4-202, is amended by adding the following after the first sentence:

Prior to the adoption of the plan or any parts or parts thereof by the commission, the commission shall hold a public hearing thereon, the time and place of which shall be published in a newspaper of general circulation in the municipality at least thirty (30) days prior to the meeting in which the adoption is to be first considered.

SECTION 8. Tennessee Code Annotated, Section 13-4-202, is amended by adding the following to the end of the section:

Once the commission has adopted the general plan or amendment thereof for the planning jurisdiction of the commission, the commission's transmittal of the certification to the legislative body may simultaneously include a resolution by the planning commission requesting the consideration and adoption of the general plan by the legislative body of the municipality and in the case of a municipal regional planning commission by the county legislative body for the area outside the municipal boundary limits but within the county. The municipal legislative body by ordinance may adopt the general plan as certified by the planning commission and the county legislative body by resolution may adopt the elements of the plan within the jurisdiction of the county legislative body as certified by the planning commission. Once adopted by the legislative body, the general regional plan may be amended by a vote as follows:

(1)

(A) Except as provided in subdivision (B), the planning commission may initiate an amendment to the general plan. If the planning commission votes to adopt an amendment to the general plan, the planning commission shall transmit its action to the legislative body and the legislative body must pass the amendment by a majority vote in order for the amendment to be operative.

(B) Provided, however, in any county having a population of:

<u>not less than</u>	<u>nor more than</u>
12,800	12,900
7,975	8,025
17,400	17,450
20,300	20,400
17,700	17,775
7,200	7,300
88,800	88,900.

, all according to the 2000 federal census or any subsequent federal census, if the planning commission initiates and votes to adopt an amendment to the general plan, the amendment shall be operative without further action of the legislative body. The

planning commission shall transmit its action to the legislative body.

(2) The general regional plan may be amended upon the initiative of the legislative body. Such initiative must be transmitted, in writing, to the planning commission for its review, consideration and vote. The planning commission must take action on the amendment and transmit its action to the legislative body within sixty-one (61) days of the submittal of the amendment to the planning commission by the legislative body.

(A) Except as provided in subdivision (B), if the planning commission votes to approve or not approve the amendment or transmits the amendment back to the legislative body with no recommendation, the legislative body must then approve such amendment by a majority vote.

(B) If the municipal planning commission created by a municipality located in any county having a population of:

<u>not less than</u>	<u>nor more than</u>
12,800	12,900
7,975	8,025
17,400	17,450
20,300	20,400
17,700	17,775
7,200	7,300
88,800	88,900.

, all according to the 2000 federal census or any subsequent federal census, votes to approve the amendment, the amendment shall be operative without further action of the legislative body. If such municipal planning commission votes to not approve the amendment or to make no recommendation on the amendment, the amendment shall not be operative. The municipal planning commission shall transmit its action back to the legislative body and provide a written explanation for its reasons in not approving the amendment or for not making a recommendation on the initiative transmitted to the commission by the legislative body.

Prior to the adoption of the general plan or amendment thereof, a legislative body shall hold a public hearing thereon, the time and place of which shall be published in a newspaper of general circulation in the municipality at least thirty (30) days prior to the legislative body's meeting in which the adoption or amendment is to be first considered. After the adoption of the general plan by a legislative body, any land use decisions thereafter made by that legislative body and the respective planning commission must be consistent with the plan. The general plan may be adopted as an element of the jurisdiction's growth plan through the process established in title 6, chapter 58, but if the general plan is not adopted as part of the growth plan, it nevertheless cannot be inconsistent with the growth plan or the intent of title 6, chapter 58.

SECTION 9. Tennessee Code Annotated, Section 13-4-203, is amended by deleting the period at the end of the section and adding the following language:

, and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur.

SECTION 10. Tennessee Code Annotated, Section 13-4-303(a), is amended by deleting the period at the end of the subsection and adding the following language:

, and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur.

SECTION 11. Tennessee Code Annotated, Section 13-7-101(a) (1), is amended by deleting the period at the end of the first sentence and adding the following language:

, and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur.

SECTION 12. Tennessee Code Annotated, Section 13-7-102, is amended by adding after the phrase "water supply conservation or other purposes," in the first sentence the following:

and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur,

SECTION 13. Tennessee Code Annotated, Section 13-7-103, is amended by deleting the period at the end of the section and adding the following language:

, and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur.

SECTION 14. Tennessee Code Annotated, Section 13-7-201 (a)(1), is amended by deleting the period at the end of the first sentence and adding the following language:

, and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning

commission has determined are necessary in order for development to occur.

SECTION 15. Tennessee Code Annotated, Section 13-7-202, is amended by adding after the phrase "public activities and other purposes," in the first sentence the following:

and identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities when the planning commission has determined such services are necessary in order for development to occur,

SECTION 16. Tennessee Code Annotated, Section 13-4-101(a), is amended by designating the existing language as subdivision (1) and by adding the following language to be designated as subdivision (2):

(2) Notwithstanding the provisions of subdivision (1), any member of a planning commission created by a municipality incorporated under a private act and having a population of not less than seventy-four hundred (7,400) nor more than seventy-five hundred (7,500), according to the 2000 federal census or any subsequent federal census, shall be appointed by a majority vote of the legislative body of such municipality.

SECTION 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 18. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 21, 2008


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 13th day of June 2008



PHIL BREDESEN, GOVERNOR